



## **Federal Transit Administration**

**[Docket FTA-2021-0001]**

### **Notice of Establishment of Emergency Relief Docket for Calendar Year 2021**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2021, so that grant recipients and sub-recipients affected by a national or regional emergency or disaster may request temporary relief from FTA administrative and statutory requirements.

**FOR FURTHER INFORMATION CONTACT:** Bonnie L. Graves, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 90 Seventh Street, Ste. 15-300, San Francisco, CA 94103; phone: (202) 366-0944, fax: (415) 734-9489, or e-mail, [Bonnie.Graves@dot.gov](mailto:Bonnie.Graves@dot.gov).

### **SUPPLEMENTARY INFORMATION:**

Pursuant to 49 CFR § 601.42, FTA is establishing the Emergency Relief Docket for calendar year 2021. In the case of a national or regional emergency or disaster, or in anticipation of such an event, when FTA requirements impede a recipient or sub-recipient's ability to respond to the emergency or disaster, a recipient or sub-recipient may submit a request for relief from specific FTA requirements.

If FTA determines that a national or regional emergency or disaster has occurred, or in anticipation of such an event, FTA will place a message on its web page (<http://www.transit.dot.gov>) indicating that the Emergency Relief Docket has been opened and including the docket number.

All petitions for relief from FTA administrative or statutory requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly

available and can be accessed 24 hours a day, seven days a week, via the internet at [www.regulations.gov](http://www.regulations.gov). Any recipient or sub-recipient submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA-2021-0001.

Interested parties may consult 49 CFR Part 601, subpart D for information on FTA's emergency procedures for public transportation systems. FTA strongly encourages recipients and sub-recipients to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

A recipient or sub-recipient seeking relief has three avenues for submitting a petition. First, a recipient or sub-recipient may submit a petition for waiver of FTA requirements to [www.regulations.gov](http://www.regulations.gov), for posting in the docket (FTA-2021-0001). Alternatively, a recipient or sub-recipient may submit a petition in duplicate (two copies) to the FTA Administrator, via U.S. mail or hand delivery to Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; via fax to (202) 366-3472; or via email to [Bonnie.Graves@dot.gov](mailto:Bonnie.Graves@dot.gov); or via U.S. mail or hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590. Thirdly, in the event that a recipient or sub-recipient needs to request immediate relief and does not have access to electronic means to request that relief, the recipient or sub-recipient may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

Federal public transportation law at 49 U.S.C. 5324(d) provides that a grant awarded under Section 5324, or under 49 U.S.C. 5307 or 49 U.S.C. 5311, that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. This language allows FTA to waive certain statutory, as well as administrative, requirements. An FTA recipient or sub-recipient receiving financial assistance under 49 U.S.C. 5324, 5307, or 5311 that is affected by a national or regional

emergency or disaster may request a waiver of provisions of Chapter 53 of Title 49 of the United States Code in connection with such financial assistance, when a recipient or sub-recipient demonstrates that the requirement(s) will limit a recipient's or sub-recipient's ability to respond to a national or regional emergency or disaster.

Pursuant to 49 CFR § 601.42, a recipient or sub-recipient must include certain information when requesting a waiver of statutory or administrative requirements. A petition for relief shall:

- (a) Include the agency name (Federal Transit Administration) and docket number FTA-2021-0001;
- (b) Identify the recipient or sub-recipient and its geographic location;
- (c) Identify the section of Chapter 53 of Title 49 of the United States Code, or the portion of an FTA policy statement, circular, guidance document or rule, from which the recipient or sub-recipient seeks relief;
- (d) Specifically address how a requirement in Chapter 53 of Title 49 of the United States Code, or an FTA requirement in a policy statement, circular, agency guidance or rule, will limit a recipient's or sub-recipient's ability to respond to a national or regional emergency or disaster; and
- (e) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

Pursuant to 49 CFR § 601.46, a petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted regarding the petition. FTA may contact the recipient or sub-recipient that submitted the

request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and any comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the recipient or sub-recipient may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator. Further, recipients seeking a waiver from Buy America requirements must follow the procedures in 49 CFR Part 661. Buy America waivers will not be granted through the Emergency Relief Docket.

An FTA decision, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates. FTA reserves the right to reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three-business day comment period, or at the request of a recipient or sub-recipient upon denial of a request for relief. FTA shall notify the recipient or sub-recipient if FTA plans to reconsider a decision.

Pursuant to FTA's Charter Rule at 49 CFR 604.2(f), recipients and sub-recipients may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the

emergency lasts more than 45 calendar days and the recipient will continue to provide service that would otherwise be considered charter service, the recipient or sub-recipient shall follow the procedures set out in this notice.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Recipients and sub-recipients should refer to FTA's regulations, including 49 CFR Part 601, for requirements for submitting a request for emergency relief.

Issued in Washington, D.C.

K. Jane Williams,  
Deputy Administrator.

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